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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,582	02/12/2002	David S. Browe		4255

7590

05/14/2003

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EXAMINER

TIBBITS, PIA FLORENCE

ART UNIT

PAPER NUMBER

2838

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,582

Applicant(s)

BROWE, DAVID S.

Examiner

Pia F Tibbits

Art Unit

2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 2.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____.

DETAILED ACTION

This Office action is in answer to the amendment filed April 7, 2003. Claims 9 and 13 were cancelled.

1. Examiner acknowledges Mr. Werner Schroeder as agent for applicant. The power of attorney was filed April 7, 2003, at the same time with the amendment. Examiner returned a call and had an interview with the applicant on April 25, 2003, not knowing that that Mr. Schroeder is now an agent in this case. Future communications could only take place with the agent of record.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the conventional names, as described in the specification, e.g. batteries, etc. for the elements 12, 16, 18, etc., shown in figures 1-4 with non-conventional symbols. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show element 26 as described in the specification on page 6. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification. For example, on page 5 of the specification, "automobile batteries" are described, which is not correct.

Art Unit: 2838

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter: a stand-alone container, since on page 6 of the specification it is described "A pair of such DC outlets 26 are shown at the side of the enclosure or container 12 in Fig. 3". The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter: "solar panels located on said container". See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-18 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

8. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 (amended): the statement "**stand-alone container**" contradicts following statements, i.e., "**storage batteries for providing auxiliary power when required**", and "**apparatus is ready for operation either through use of said batteries or through use of the renewable energy source**". Applicant needs to distinguish whether the solar panels are the only source of power or not. Additionally, on page 6 of the specification it is described, "A pair of such **DC outlets** 26 are shown at the side of the enclosure or container 12 in Fig. 3".

Claim 10 (amended): the statement "**A water filtration apparatus that is self-contained within a stand-alone container**" is confusing since fig.1 describes container 12 containing batteries, and on page 6 of the specification it is described "A pair of such DC outlets 26 are shown at the side of the enclosure or container 12 in Fig. 3". Applicant needs to distinguish whether the solar panels are the only source of power or not.

Art Unit: 2838

the amended limitation "**solar panels located on said container**" is not clear: applicant's specification states on page 7 that "the solar panels are removed from the enclosure and deployed in a desired location", or on page 5 that "**these panels 18 are attached** to the container 12, Fig. 3, when the apparatus is **packaged or self-contained for sale or while it is being stored or transported. During use or when getting ready for use, the solar panels 18 are disconnected from the enclosure or the container 12 and are deployed in an appropriate outdoor location.** This may include mounting the panels on a roof top or any other conveniently accessible location that receives optimal amounts of sunlight/ daylight". Applicant needs to distinguish whether the solar panels are located on the container, while in use.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-7, 10, 11, 14-18, as best as they can be understood at this time, are rejected under 35 U.S.C. 103(a) as being unpatentable over **Staschik** [6393775].

Staschik discloses a water filtration system including a renewable stored energy apparatus/ solar/photovoltaic components [column 1, line 67; column 2, lines 5-8] comprising a fully contained and stand-alone container 10, the container containing one or more storage batteries 94 [column 9, lines 18-22] for providing auxiliary power when required, a water filtration system 36, a water filter 38 and 42, a water dispensing device 46, and a pump 267. Staschik does not disclose specifically a container being movable by hand.

Art Unit: 2838

In regard to amended claim 1 limitation "**container being movable by hand**": Staschik discloses in the abstract that his invention "Utilities Container" is meant for houses and other buildings in remote locations, which are not serviced with mains (municipal) utilities, that it is assembled in a factory in a stand alone module, which therefore is portable. Additionally MPEP 2144.04 states case law, *In re Lindberg*, 194 F.2d 732, 93 USPQ 23 (CCPA 1952): fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results.

In regard to amended claim 10 limitation "**solar panels located on said container**", absent any criticality, is only considered to be an obvious modification as it has been held by the courts that there would be no invention in shifting the location of a structure of a device to another location if the operation of the device would not thereby be modified. *In re Japikse*, 86 USPQ 70.

Official Notice is taken with regard to claims 5-7 since it is well known in the art to use a 12 volt or 110 volt outlets to deliver electricity to users.

As to claims 14-18, having multiple panels fastened to a basic frame assembly; the panels including two side panels, a rear panel, a front panel and a top cover panel; the top cover having two openings at a top surface thereof and a semicircular support element protrudes through each of said openings; a frame support assembly having support struts and the struts being fastened to each of the semicircular support elements; and the frame support assembly forms a base for supporting the solar panels: Staschik discloses the photovoltaic panels 252 in fig.2, it is an inherent function of Staschik's modular potable water purification and storage system powered by a stand-alone electricity system based on photovoltaic components to provide support for the photovoltaic panels, and MPEP 2100 states that the disclosure of a limitation may be expressed, implicit or **inherent**.

11. Claims 8 and 12, as best as they can be understood at this time, are rejected under 35 U.S.C. 103(a) as being unpatentable over **Staschik**, as described above, in combination with **WO 9837950** [hereinafter WO].

Art Unit: 2838

Staschik discloses a modular potable water purification and storage system powered by a stand-alone electricity system based on photovoltaic components. Staschik does not disclose a reverse osmosis system.

WO discloses in the abstract a portable reverse osmosis unit for producing drinking water. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the potable water purification system in Staschik's apparatus with the reverse osmosis unit disclosed by WO in order to be able to desalinize seawater and provide potable water.

Response to Arguments

12. Applicant's arguments filed on April 7, 2003 have been fully considered but they are not persuasive.

a) the drawing objections are maintained.

b) the correction to page 8 of the specification is acknowledged. The other objection to the specification is maintained, since batteries are defined by their chemistry, by the fact that they are rechargeable or not. However, batteries are not defined by their place of use.

c) Applicant's specification on page 1 states, "During severe storms and other natural disasters, conventional supplies of clean water and electrical power may be disrupted. **Solar and wind powered generators have been used** to provide auxiliary electrical power. However, these systems have not been available in a compact, conveniently portable package that is relatively inexpensive and easy to store when not in use" In other words solar power as auxiliary power is known, and the applicant is claiming inventing a "**portable**" solar system [see also rejection under paragraph 10 mentioned above].

d) the claim rejections are maintained.

e) In response to Applicant's argument stated on page 6, that the Staschik reference fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies, i.e., that the "**stand-alone container, containing one or more storage batteries is being**

Art Unit: 2838

movable by hand" is not patentable matter. Additionally, the Staschik container is modular, addressing needs in remote locations, and therefore, portable. Staschik clearly discloses in column 6, lines 9-11 that "the electric power supply means is selected from **solar (photovoltaic)**, local grid, storage battery, and generator", and in column 9, lines 18-22 that "although electricity may be supplied by **solar (photovoltaic)**, storage battery, grid system or local generator, **a storage battery bank 94 and a control panel 96 for a photovoltaic solar system** are also conveniently provided".

f) In regard to amended claim 10 limitation "**solar panels located on said container**", applicant's specification states on page 7 that "**the solar panels are removed from the enclosure and deployed in a desired location**" or on page 5 that "**these panels 18 are attached to the container 12, Fig. 3, when the apparatus is packaged or self-contained for sale or while it is being stored or transported. During use or when getting ready for use, the solar panels 18 are disconnected from the enclosure or the container 12 and are deployed in an appropriate outdoor location.** This may include mounting the panels on a roof top or any other conveniently accessible location that receives optimal amounts of sunlight/ daylight".

g) the objections to the oath/declaration are withdrawn.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2838

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, as best as it can be understood at this time. The prior art cited in PTO-892 and not mentioned above disclose related apparatus, as best as it can be understood at this time.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is (703) 308-7305. If unavailable, contact the Supervisory Patent Examiner Mike Sherry whose telephone number is (703) 308-1680.

16. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956. Papers related to Technology Center 2800 applications only may be submitted to Technology Center 2800 by facsimile transmission. Any transmission not to be considered an official response must be clearly marked "DRAFT". The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center Fax Center number is (703) 308-7722 or (703) 308-7724.

PFT

May 13, 2003



Edward H. Tso
Primary Examiner